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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,742	12/12/2003	Craig A. Andreiko	ORM-228US	9579
26875 7	590 10/04/2006		EXAMINER	
WOOD, HERRON & EVANS, LLP			LEWIS, RALPH A	
2700 CAREW 441 VINE STR			ART UNIT	PAPER NUMBER
CINCINNATI,	OH 45202		3732	
			DATE MAILED: 10/04/200	6

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	10/734,742	ANDREIKO, CRAIG A.			
Office Action Summary	Examiner	Art Unit			
	Ralph A. Lewis	3732			
The MAILING DATE of this communication ap Period for Reply	ppears on the cover sheet w	ith the correspondence address	•		
A SHORTENED STATUTORY PERIOD FOR REPI WHICHEVER IS LONGER, FROM THE MAILING [ - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNI  .136(a). In no event, however, may a  d will apply and will expire SIX (6) MOI  te. cause the application to become A	CATION. reply be timely filed  ITHS from the mailing date of this communication  BANDONED (35 U.S.C. § 133)			
Status					
1) Responsive to communication(s) filed on 17.	July 2006.				
2a) This action is <b>FINAL</b> . 2b) ☑ Thi	is action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under	Ex parte Quayle, 1935 C.E.	). 11, 453 O.G. 213.			
Disposition of Claims					
4) Claim(s) 1-58 is/are pending in the application	n.				
4a) Of the above claim(s) 27-30,32,51,52,55,5	57 and 58 is/are withdrawn	from consideration.			
5) Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>1-26,31,33-50,53,54 and 56</u> is/are re	ejected.				
7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/	or election requirement.				
Application Papers					
9)☐ The specification is objected to by the Examin	er.				
10)⊠ The drawing(s) filed on <u>12 December 2003</u> is/	are: a)⊠ accepted or b)[	objected to by the Examiner.			
Applicant may not request that any objection to the	e drawing(s) be held in abeya	nce. See 37 CFR 1.85(a).			
Replacement drawing sheet(s) including the correct	•	· · · · · ·			
11)☐ The oath or declaration is objected to by the E	Examiner. Note the attache	d Office Action or form PTO-152.			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of:	n priority under 35 U.S.C.	3 119(a)-(d) or (f).			
1. Certified copies of the priority documen	nts have been received				
2. Certified copies of the priority documen		pplication No.			
3. Copies of the certified copies of the price		• • • • • • • • • • • • • • • • • • • •			
application from the International Burea	au (PCT Rule 17.2(a)).	_			
* See the attached detailed Office action for a lis	t of the certified copies not	received.			
Attachment(s)					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)		Summary (PTO-413) s)/Mail Date			
3) Information Disclosure Statement(s) (PTO/SB/08)		nformal Patent Application			
Paper No(s)/Mail Date	6)  Other:	<del></del> ·			
J.S. Patent and Trademark Office PTOL-326 (Rev. 08-06) Office A	Action Summary	Part of Paper No./Mail Date 20060	0926		

Application/Control Number: 10/734,742 Page 2

Art Unit: 3732

**Acknowledgement of Election** 

Applicant's election without traverse of Species I – Figures 1-5 is acknowledged.

Applicant indicates that claims 1-27, 31, 33-50, 53, 54 and 56 read on Species I.

Claims 28-30, 32, 51, 52, 55, 57 and 58 are withdrawn from further consideration as

being directed to a non-elected invention.

Rejections based on 35 U.S.C. 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 44 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

In claim 44, there is no antecedent basis for "the mesh."

In claim 50, it is unclear how the intended use of a particular adhesive has

anything to do with the claimed "method of constructing" of the parent claim. Moreover,

it is unclear what constitutes "an adhesive of unconventionally low elastic modulus."

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United

States.

Application/Control Number: 10/734,742

Art Unit: 3732

Claims 1-5, 9, 10, 12, 13, 15, 24-27, 31, 35, 37-41, 49, 50, 53 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al (US 4,068,379).

Miller et al disclose that it is known in the prior art to provide orthodontic brackets with a mesh screen spot welded to the base of the bracket (column 1, line 55-57). Miller et al further disclose that the number of spot welds between the bracket and the mesh determine the flexibility of the mesh pad and that it is known to provide only a few spot welds which results in increased flexibility (see column 2, lines 8-14). In regard to claim 24, the mesh of the prior art discussed by Miller et al meets the bonding structure limitation, the body of the bracket meets the external surface limitation and the limited spot welding connection between bracket and the mesh meets the resilient interface limitation.

Claims 1, 3-6, 9, 10, 15, 24-26, 33-35, 37, 39-41, 45, 49, 50, 53 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Kesling (US 5,263,859).

Kesling discloses an orthodontic bracket 16 having a flexible bonding structure 15 which inherently provides for a compliant attachment to the tooth.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Application/Control Number: 10/734,742

Art Unit: 3732

Claims 6-8, 11, 14, 16-23, 33, 34, 36, 42-48 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (US 4,068,379).

Miller et al are unclear as to the explicit structure of the bracket with spot welded mesh discussed in the prior art at column 1, line 55 – column 2, line 15. However, in regard to claims 6, 14, 16, 45 one of ordinary skill in the art would have been motivated to provide for a few spot welds along the edge of the bracket and the mesh so that the edges are secured and the bracket will not separate from the mesh along the edges. In regard to claims 7 and 8, 11, 47 to have provided for a conventional metal sheet base 18 as in the Miller et al embodiment of Figure 3 would have been obvious to one of ordinary skill in the art In view of the Figure 3 embodiment as a conventional construction. In regard to claims 33, 34, Figure 3 of Miller et al illustrates conventional tapered tie wings on a dental bracket, the use of which would have obvious to the ordinarily skilled artisan in the spot welded bracket discussed in the prior art.

## **Prior Art**

Schinhammer (US 4,094,068), Forster (US 4,256,455), Maurer et al (US 4,544,353), baurmash (US 4,904,188), Forster (US 5,746,593) and Devanathan (US 6,749,426) are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712.** Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis September 26, 2006

> Raiph A. Lewis Primary Examiner Au 3732